

CLERK'S OFFICE U.S. DISTRICT COURT
AT CHARLOTTESVILLE, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

MAY 24 2023
LAURA A. JUSTIN, CLERK
BY: SMH
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

ELLIOTT SIMON ATWELL

CASE NO. 3:23-cr-00009

In Violation of:

18 U.S.C. §§ 2251(a) & (e)

Sexual Exploitation of a Minor

18 U.S.C. § 2422(b)

Enticement of a Minor

18 U.S.C. §§ 2252(a)(4)(B) & (b)(2)

*Possession of and Access with Intent to View Child
Pornography*

INDICTMENT

The Grand Jury charges:

COUNT ONE

18 U.S.C. §§ 2251(a) & (e)

Sexual Exploitation of a Minor

1. Between in or about December 2013 and in or about January 2016, within the Western District of Virginia and elsewhere, the defendant, Elliott Simon ATWELL, knowingly employed, used, persuaded, induced, enticed, and coerced a minor, "Minor 1," to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and attempted to do so, knowing and having reason to know that such visual depiction would be transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce; and which visual depiction was produced and transmitted using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer; and which visual depiction

was actually transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce.

2. All in violation of Title 18, United States Code, Sections 2251(a) & (e).

COUNT TWO
18 U.S.C. §§ 2251(a) & (e)
Sexual Exploitation of a Minor

3. Between in or about 2014 and in or about October 2016, within the Western District of Virginia and elsewhere, the defendant, Elliott Simon ATWELL, knowingly employed, used, persuaded, induced, enticed, and coerced minors, “Minors 2A and 2B,” to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and attempted to do so, knowing and having reason to know that such visual depiction would be transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce; and which visual depiction was produced and transmitted using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer; and which visual depiction was actually transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce.

4. All in violation of Title 18, United States Code, Sections 2251(a) & (e).

COUNT THREE
18 U.S.C. §§ 2251(a) & (e)
Sexual Exploitation of a Minor

5. Between in or around September 2015 and in or around April 2018, within the Western District of Virginia and elsewhere, the defendant, Elliott Simon ATWELL, knowingly employed, used, persuaded, induced, enticed, and coerced a minor, “Minors 3A and 3B,” to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and

attempted to do so, knowing and having reason to know that such visual depiction would be transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce; and which visual depiction was produced and transmitted using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer; and which visual depiction was actually transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce.

6. All in violation of Title 18, United States Code, Sections 2251(a) & (e).

COUNT FOUR
18 U.S.C. §§ 2251(a) & (e)
Sexual Exploitation of a Minor

7. Between in or about April 2018 and May 2019, within the Western District of Virginia and elsewhere, the defendant, Elliott Simon ATWELL, knowingly employed, used, persuaded, induced, enticed, and coerced a minor, “Minor 4,” to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and attempted to do so, knowing and having reason to know that such visual depiction would be transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce; and which visual depiction was produced and transmitted using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer; and which visual depiction was actually transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce.

8. All in violation of Title 18, United States Code, Sections 2251(a) & (e).

COUNT FIVE

18 U.S.C. § 2422(b)

Enticement of a Minor

9. Between in or about 2013 and in or about April 2020, in the Western District of Virginia and elsewhere, the defendant, Elliott Simon ATWELL, did use the mail and any facility and means of interstate and foreign commerce to knowingly persuade, induce, entice, and coerce any individual who has not attained the age of 18 years to engage in sexual activity for which any person could be charged with a criminal offense, including but not limited to the sexual exploitation of a minor, in violation of 18 U.S.C. § 2251(a) and (e); production of child pornography, in violation of Virginia Code § 18.2-374.1; human trafficking, in violation of N.J. Rev. Stat. § 2C:13-8(1)(a)(g) and (3); posing or exhibiting a child in a state of nudity or sexual conduct, in violation of Mass. Gen. Law ch. 272, § 29A; trafficking of persons under 18 years for sexual servitude, in violation of Mass. Gen. Law ch. 265, § 50; enticement of a child under age 18 to engage in prostitution, human trafficking or commercial sexual activity, in violation of Mass. Gen. Law ch. 265, § 26D(c); and pandering sexually oriented matter involving a minor, in violation of Ohio Rev. Code § 2907.22, and attempted to do so.

10. All in violation of Title 18, United States Code, Sections 2422(b) and 2427.

COUNT SIX

18 U.S.C. §§ 2252(a)(4)(B) & (b)(2)

Possession of and Access with Intent to View Child Pornography

11. Between in or around May 2020 and in or around June 2020, in the Western District of Virginia and elsewhere, the defendant, Elliott Simon ATWELL, did knowingly possess and access with intent to view at least one matter containing one or more visual depictions that had been mailed, and shipped and transported using a means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce, and which visual depictions were

produced using materials which had been mailed and so shipped and transported, by any means, including by computer, and attempted to do so; and the production of such visual depictions involved the use of a minor engaging in sexually explicit conduct and the visual depictions were of such conduct, namely: one or more digital visual depictions of minors, including one or more prepubescent minors and minors who had not attained 12 years of age, engaging in sexually explicit conduct.

All in violation of Title 18, United States Code, Sections 2252(a)(4)(B) & (b)(2).

FORFEITURE NOTICE

18 U.S.C. §§ 2253, 2428

1. Upon conviction of one or more of the felony offenses alleged in this Indictment, the defendant shall forfeit to the United States:

- a. any visual depiction described in 18 U.S.C. §§ 2251, 2251A, or 2252, 2252A, 2252B or 2260, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of law, pursuant to 18 U.S.C. § 2253(a)(1).
- b. any property, real or personal, used or intended to be used to commit or to facilitate the commission of said violation of law, or any property traceable to such property, pursuant to 18 U.S.C. § 2428(b)(1)(A).
- c. any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from said violation of law, pursuant to 18 U.S.C. § 2253(a)(2).
- d. any property, real or personal, used or intended to be used to commit or to promote the commission of said violation of law, or any property traceable to such property, pursuant to 18 U.S.C. § 2253(a)(3).
- e. any property, real or personal, that constitutes or is derived from proceeds traceable to said violation of law, or any property traceable to such property, pursuant to 18 U.S.C. § 2428(b)(1)(B).

2. The property to be forfeited to the United States includes but is not limited to the

following property:

- a. iPhone 11 Pro Max, bearing serial number FK1ZH2K9N70M, with sim card;
 - b. Macbook Pro laptop computer, Model A1398, bearing serial number C02AP60FWG3QG; and
 - c. All such material containing the above-described visual depictions.
3. If any of the above-described forfeitable property, as a result of any act or omission

of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States to seek forfeiture of any other property of the defendant up to the value of the above-described forfeitable property, pursuant to 21 U.S.C. § 853(p).

TRUE BILL this 21 day of May, 2023.

s/ Grand Jury Foreperson
FOREPERSON


CHRISTOPHER R. KAVANAUGH
UNITED STATES ATTORNEY